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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 DARONTE TYRONE LEWIS,

12 Plaintiff,

13 v.

14 S. SHERMAN; FNU SMITH; FNU
15 JOHNSON; FNU PIPER; NIKKI
16 JOHNSON; J. JIMENEZ; STATE OF
17 CALIFORNIA; CDCR,

18 Defendant.

Case No. 1:20-cv-00574-HBK

ORDER DENYING PLAINTIFF'S MOTIONS
TO APPOINT COUNSEL

(Doc. Nos. 69, 101, 102)

19 Plaintiff Daronte Tyrone Lewis, proceeding *pro se*, initiated this action by filing a civil
20 rights complaint under 42 U.S.C. § 1983. (Doc. No. 1). The Court granted Plaintiff's motion to
21 proceed *in forma pauperis* (Doc. No. 2). Pending before the Court are Plaintiff's motions to
22 appoint counsel (Doc. No. 69, 101, 102) and his declaration supporting his motion to appoint
23 counsel (Doc. No. 104), and duplicative notices of change of address (Doc. No. 104, 105).

24 **I. BACKGROUND**

25 Despite the undersigned being reassigned this case in November 2020, Plaintiff is no
26 stranger to this Court. Plaintiff repeatedly and prolifically has filed duplicative motions seeking
27 the same relief, despite this Court's admonitions and warnings to refrain from such activity. (*See*
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1 Doc. No. 66) (directing Plaintiff to *refrain from duplicative and repeated filings because such*
2 *filings only serve to further delay resolution of this matter and congest the court's docket*)
3 (emphasis added). This Court's February 2, 2021 Order previously denied approximately eight of
4 Plaintiff's previous motions, including his motion to submit evidence, pre-mature motions for
5 summary judgment by default or motion for entry of default judgments, and his duplicative
6 motions to appoint counsel. (Doc. No. 66 at 1-5) (citing Doc. Nos. 57, 58, 59, 60, 61, 63, 64).
7 The February 2 Order also granted Plaintiff's "motion to expedite and for court to rule" to the
8 limited extent the Court ruled on his pending motions. Most importantly, the February 2 Order
9 confirmed to Plaintiff that Defendants had filed a motion to dismiss his Complaint on January 14,
10 2021 and permitted Plaintiff an extension of time, until February 26, 2021, to file a response to
11 the motion. (Doc. No. 66 at 3-5) (citing Doc. Nos. 62 and 54). Plaintiff timely filed a response
12 opposing Defendants' motion to dismiss on February 10, 2021. (Doc. No. 73). And Defendants
13 elected not to file a reply. (*See* docket). The Court recognizes the motion to dismiss is ripe for
14 adjudication.

15 **II. MOTIONS TO APPOINT COUNSEL (DOC. NOS. 69, 101, 102)**

16 Seven times previously, the Court has issued orders denying Plaintiff's motions for
17 appointment of counsel. (Doc. No. 52) (addressing motions at Doc. Nos. 29, 30, 32, 33, 45);
18 (Doc. No. 66 at 3) (denying motions at Doc. Nos. 59, 63). Now pending are three additional
19 motions to appoint counsel, one of which entitled an "emergency." In support, Plaintiff filed a
20 declaration. (Doc. No. 104). The emergency motion dated June 1, 2021, states that Plaintiff is
21 hospitalized and has sustained an injury to his right hand. (Doc. No. 101 at 1). Plaintiff states he
22 cannot write, presumably because he is right-handed. (*Id.*). As a result, Plaintiff requests that the
23 Court appoint him counsel. (*Id.*). Notably this motion is typed, not handwritten. Plaintiff's
24 second motion and his declaration asserts the same facts concerning his hand injury. (*See* Doc.
25 Nos. 102, 104).

26 The Court incorporates by reference the law governing appointment of counsel set forth in
27 its December 28, 2020 Order (Doc. No. 52) and denies Plaintiff's renewed motions to appoint
28 counsel. While the Court is sensitive to Plaintiff's asserted physical limitations caused by his

1 right-hand injury earlier this month, Plaintiff still managed to file four pleadings. (Doc. Nos. 102,
2 103, 104, 105). These pleadings further indicate that staff assisted with these pleadings. (Doc.
3 No. 104 at 3) (noting “staff assisted”). Despite his temporary writing limitations, Plaintiff still
4 has an ability to file pleadings. Further, Plaintiff is not under any court-ordered deadlines. The
5 case awaits a ruling on Defendants’ pending motion to dismiss, which the Court has taken under
6 advisement. The Court finds no new circumstances which warrant appointment of counsel.

7 Accordingly, it is **ORDERED**:

8 Plaintiff’s motions to appoint counsel (Doc. Nos. 69, 101, 102) are denied, without
9 prejudice.

10 IT IS SO ORDERED.

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12 Dated: July 1, 2021

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14 HELENA M. BARCH-KUCHTA
15 UNITED STATES MAGISTRATE JUDGE
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